School of Social and Political Sciences

New Social Movements, Indigenous Activism and Globalisation From Below: The Case of the Sacred Land of Wirikuta

September, 2015
2127634

Presented in Partial Fulfilment of the Requirements for the Degree of MRes in Human Rights and International Politics

Acknowledgements

Firstly, I would like to express my sincere gratitude to my parents and my brother, whose example and guidance have made me who I am today.

I would like to express my gratitude to my supervisor: Dr Gavin Anderson, whose guidance and suggestions were essential to the birth of this document.

I would like to thank Dr Kurt Mills, for his efforts in guiding us through the process of conceiving a dissertation project.

I would like to thank Ana,mi nausi, I feel grateful and blessed for having you by my side, even in the distance I never stopped feeling your support.

On a different note I would like to thank the *Consejo Nacional de Ciencia y Tecmologia* (CONACYT), the *Fundación Mexicana para la Educación, la Tecnología y la Ciencia* (*FUNED,* and Santander, for their financial support throughout my Master Program.

.

TABLE OF CONTENTS

ABSTRACT

This research dissertation is divided into three chapters. Chapter 1 focuses in the descriptive, theoretical and normative aspects of the problem, providing the conceptual and analytical groundwork of the significance of indigenous struggles in a context of globalisation. In Chapter II, I discuss the key elements of this dissertation in order to prepare the basis for section III, and explore other cases of indigenous struggles in order to connect theory and practice of indigenous activism. Chapter III focuses on the question developed in Chapter I in light of the case study: the sacred land of Wirikuta case and the struggles of the Wixáritari people in Mexico. The research question of this dissertation is this: considering that several scholars have suggested that indigenous movements have come to challenge contemporary understandings of legality and legitimacy of the modern state (Fitzpatrick 2001; Grote 1999; Santos 2009; Warren and Jackson 2002; Yashar 2005) how is this challenge articulated into the strategies and actions of indigenous movements of resistance, and furthermore, are these movements really achieving the full emancipatory potential of their struggles? To put it in other words, I will concentrate in the question: *Under what conditions and by which mechanisms are indigenous activists fulfilling the counter-hegemonic potential of their struggles.*[1]

The theoretical part of this dissertation is concentrated in chapters 1 and 2, on chapter 3 I concentrate on press releases and secondary sources in order to gain insight into the content and methods of speech regarding indigenous activism.

[1] The way in which this research question is articulated resembles to some extent the way in which Risse et al. (2013) address the connection between commitment to human rights and compliance of transactional actors. The purpose of doing so is because one of the main questions of this dissertation regards the dynamics of hegemonic structures and counter-hegemonic struggles.

CHAPTER 1- QUESTION AND APPROACH

According to Santos (2009) this is a time strong questions and weak answers. Strong questions because they challenge the societal and epistemological paradigm that has shaped the scope within which we find our alternatives. However, the answers are weak because they don't really challenge this horizon of possibilities. These options are contained within a dominant paradigm and fail to decrease the state of perplexity that arises in front of these questions.

There are both weak-strong answers and weak-weak answers; weak-strong answers are strong enough to predict the collapse of the ruling paradigm and to call for the need to go beyond it, these answers transform the perplexity into "positive energy", they show the limits and the historical nature of the existing range of possibilities. Weak-weak answers, in contrast, fail to look beyond the current paradigm as a given fact, and refuse to admit its historical, political and cultural limits. One of the strong questions is formulated in this way: *"if there is only one human kind, why are there so many different principles concerning human dignity and a fair society, all of them supposedly unique, yet contradictory among themselves? "* (Santos 2009)

The most conventional answer to this question is that such diversity is only to be recognised as long that it does not contradict universal human rights. Santos holds the view that this is a weak-weak answer because it dismisses the perplexity underlying such question. This answer reduces the understanding of the world to a western-based experience, and either ignores or trivialises other decisive cultural and political experiences,

this is the case of movements of resistance that have emerged against oppression, whose ideological bases have often little to do with the dominant western cultural and political references: This is the case of indigenous movements, especially in Latin America. According to Santos, these movements start from cultural references that are non-western and challenge the received understandings of the hegemonic political and cultural thinking. In "*Toward a new legal common sense*" (Santos 2002, p.245) focuses on the claims of indigenous peoples because they represent the most far-reaching challenge to the modern equation among nation, state and law. For instance, ethnic movements have collectively challenged prevailing ideas about citizenship and the nation-state, particularly the idea that the nation-state, as currently conceived serves as the legitimate basis for extending and defining democratic citizenship rights and responsibilities (Yashar 2005)

These movements have also contributed to the debates regarding the central question of constitutional law –*who exercises political power, on what terms and subject to what condition and limits*- (Anderson 2005, p.145) The study of indigenous movements have suggested at least two ways in which the possible answers to this question are broadened: these movements often employ tactics that bypass official, institutional processes completely, and also these movements often regard relevant subjects such as corporations as "centres of political authority", regardless of whether or not the official narrative recognizes this (Anderson 2005, p.150)

Current indigenous movements in Latin America are ethnic based: their claims are based on the recognition of special rights as native peoples. This implicates the recognition of land rights, their autonomous juridical spheres and the right to maintain their ethnic identities within a multinational state. These questions have opened the debate about what citizenship

entails (Yashar 2005, p.5) and more relevantly, the question of what does culture and cultural rights mean in modern societies.

THE IMPORTANCE OF CULTURE

According to Stavenhagen while cultural rights have been referred to in numerous international instruments as well as in several UNESCO conventions their full implications remains to be analysed. The importance of cultural rights remains yet to be explored considering that the mere definition of culture is problematic. Culture is not only the accumulated heritage of the societies or a process of artistic creation, it is *"the sum total of the material and spiritual activities and products of a given social group, which distinguishes it from other similar groups"* (Stavenhagen 1998, p.33)

A very common misunderstanding with regard to the definition of culture is that it is often perceived static, Indigenous movements have been accused from a liberal framework that they strive for the preservation of some ancient social system, which prevents the advance and progress of the society as a whole. Stavenhagen suggests that cultures are not static, on the very contrary, cultural change and the constant dynamic recreation of cultures is a universal phenomenon. In order to persist, a culture has to be allowed to develop and change according to its natural pace. In other words, a culture has a better possibility to survive as long as it is able to preserve its natural vitality (Stavenhagen 1998)

Indigenous peoples regard the protection of their respective cultures as a central aspect of their struggles. Furthermore, a factual or perceived threat to cultural identity is the triggering factor of most of indigenous movements of resistance.

GLOBALISATION, GLOBALISM AND INTERDEPENDENCE

According to Keohane & Nye interdependence refers to a state of affairs, a situation characterized by reciprocal effects among countries or among actors in different countries. Following from this conceptualisation, globalism -a type of interdependence-, refers to a "state of the world involving networks of interdependence at multi-continental distances". Finally, globalisation is a state of the world in which "globalism" is increasing (there could be also a decrease of globalism: de-globalisation (Keohane & Nye 2000)

Globalism is a multidimensional phenomenon, although often defined in economic terms; there are several forms of globalism: economic, military, environmental, social and cultural globalism. Social and cultural globalism refers to the movement of ideas, information, images and people. According to Keohane and Nye, the main features of contemporary globalism are the density of networks, increased institutional velocity and increased transnational participation.

It has been argued, however, that the term "globalisation" is far more complex, uneven, and fraught with tensions and contradictions, however, it is not anarchic as it reproduces the asymmetries of the world system. According to Santos, there is no genuine and unique globalisation: globalism is the "*successful globalisation of a given localism*" and globalisation is "*the process by which a given local condition or entity succeeds in extending its reach over the globe and, by doing so, develops the capacity to designate a rival condition or entity as local"* (Santos 2002, p.178).

COSMOPOLITANISM AND INDIGENOUS COSMOPOLITANISM

According to Forte, the term globalisation can be easily understood as a euphemism for the spread of liberal capitalism. Cosmopolitanism is a concept that provides safer and less contested ground for cultural dynamics that surpass the economic dimension. This distinction is of relevance because the term "cosmopolitanism", premised on the idea of a "citizen of the universe", can be associated with current practices of cross territorial and political networks not guided by economic interests. The "new" forms of cosmopolitanism consists in the following: 1) cultural and political solidarity no longer restricted to the national arena 2) the globalisation of political networks and 3) the formation of a "cosmopolitan consciousness" (Forte 2010, p.4)

Santos suggests the idea of a subaltern cosmopolitanism as a parallel process that cannot be encompassed within the definition of localised-globalism and globalised localism: "*the ways in which subordinate nation-states, regions, classes or social groups and their allies organize globally in defence of perceived common interests, and use to the benefit the capabilities of transnational interaction created by the world system"* (Santos 2002, p.180)

HEGEMONY, COUNTER-HEGEMONY AND INDIGENOUS ACTIVISM

According to Evans, counterhegemonic globalisation refers to "*the growth of transnational connections [that] can potentially be harnessed to the construction of more equitable distributions of wealth and power*". To call movements counterhegemonic implies that they have the potential to undermine the ideological power of current hegemony and to threaten the existing distributions of privilege and exclusion. Counter hegemonic

globalisation would entail the use of global processes and facilities of communication to enhance equity and justice (Evans 2005)

Indigenous movements have the potential to undermine hegemonic political power by challenging several assumptions of how should modern states be configured, these movements are pushing forth a challenge that calls on state to incorporate novel notions of who is a citizen and what does citizenship entails. According to Yashar there are different ways in which this challenge is articulated: it challenges the notion of national homogeneity that was associated with nineteenth century liberal parties and have been inscribed in Latin American constitutions (Yashar 2005, p.286) Another challenge to the common understandings of citizenship is the claim that indigenous cultures cannot be reduced to individual identities and rights, this entails the recognition as individuals but also as groups. This demand has deep implications since it is based on the pre-existence of indigenous communities to the modern state as autonomous spheres of rights, with their own jurisdiction and autonomy.

Perceiving indigenous movements as counter-hegemonic does not necessarily imply that they are a form of "counterhegemonic globalisation": not every movement that opposes neoliberal-globalization is counterhegemonic. There is the possibility that some alternative visions may be even more oppressive than the currently dominant one, as in the case of Al-Quaeda's terrorist groups; according to Evans this is an example of "anti- globalization" (Evans 2005)

Furthermore, the label "counterhegemonic globalisation" does not apply to the whole of the "global justice movement". Certainly, there are some groups with emancipatory goals who

reject the possibility of a progressive form of globalisation. These groups might be aiming to a retrieve to a world in which power and values are defined on a purely local basis. According to this, indigenous movements might be counterhegemonic but not necessarily part of counterhegemonic globalisation.

CONCLUSIONS

As indicated above, within the roots of indigenous claims lies a radical critique to the nation-state, it is a critique so radical that their claims for self-determination does not contemplate the typical attributes of statehood, such as independence or sovereignty:

> "By denouncing the social exclusion and political suppression brought about in the name of false, abstract equivalences between nation, state and law, the indigenous struggles open the ideological space for a radical revision of the vertical political obligation that underlies the liberal state, and call for new conceptions of sovereignty, disperse, shared, polyphonic sovereignty" (Santos 2002, p.255)

As Dussel observed the Zapatista Army of National Liberation (*Ejercito* Zapatista de Liberación Nacional, EZLN) in Mexico was not asking only for indigenous autonomy to be "included" in the constitution, it was asking for a deep *transformation* of the very "spirit" of this constitution. Making significant concessions to the demands of indigenous groups would imply, according to this view, a novel and transforming creation and rethinking of the constitutional framework:

> "It is not simply a matter of creating a new room for those excluded from the old house. It is necessary to build a new house, with a new

> layout. Otherwise, the indigenous, the women and the Afro-Americans will be assigned to the "servants" quarters…as before, as always" (Dussel 2002, p.284)

Considering the ultimate significance of indigenous demands, it seems necessary to analyse the ways in which this significance truly resonates in the strategies deployed by indigenous activists, in other words to find the link between theory and practice.

CHAPTER 2: THE CHALLENGES OF INDIGENOUS CLAIMS, AND THE STRATEGIES OF INDIGENOUS ACTIVISM

WHY ARE INDIGENOUS CLAIMS A "STRONG QUESTION"?

In this section, I will analyse the ways in which the claims of indigenous peoples represent a challenge to several conceptions of the hegemonic paradigm. Two main aspects are relevant to this research: 1) the necessity of incorporating novel notions of who are citizens and what does citizenship entails, 2) and the ways in which indigenous claims allegedly put in evidence misconceptions and false equivalences between nation, state and law that are put forward by liberal politic theory (Santos 2002, p.86)

I will first review the literature reporting research into the main aspects of indigenous communities that contest common understandings of citizenship. According to Yashar, this constitutes a post-liberal challenge that calls on states to incorporate heterogeneous notions of who is a citizen, how citizenship is mediated and where authority is vested. The approaches to this question have conceptualised the problem in terms of how indigenous groups can be incorporated in the legal framework of the state (Yashar 2005, p.285)

Before going further it is necessary to acknowledge the central importance of culture. Parting from the definition of culture as a "total way of life", it is to be understood as a cross dimension that relates to every aspect of the topic of indigenous claims (Stavenhagen 1998)

As Alain Touraine has noted, social movements are at once a social conflict and a cultural project, the goal of a social movement is always the realization of cultural values (Touraine, cited in Gow & Rappaport 2002)

Indigenous identity is defined in terms of a particular cosmogony. This cosmogony configures the relationship between past and present and between time and space in every dimension of life. For example, for the *Wixáritari* people, their territory means much more than merely a material resource. It encompasses not just the communal or ethnic space. It extends from sacred places on the Pacific coast of Mexico across mountains, lakes, springs and rivers into the north-central high desert (Sitton 1996)

A palpable example of the difficulties of translating these particular cosmogonies into modern legal languages of the west is the notion of customary law:

> "Contemporary indigenous legal projects employ the notion of "customary law" (usos y costumbres) in the language of the constitution but, does this notion translated in terms of the legal system corresponds entirely to what indigenous communities understand under their cosmovisions? " (Gow & Rappaport 2002, pp. 47-80)

Indigenous groups build their knowledge upon their particular cosmogony, creating uniquely native interpretations of the world. This epistemology is part of what Santos has called epistemologies of the South, that is epistemologies or forms of producing knowledge that do not form part of the hegemonic worldview of the west (framed as colonialism and post-colonialism). This implies a broader framework of "*decolonizing*" knowledge through the creation of broader categories of thought. Santos suggests a twofold strategy: a deconstructive challenge which consists in identifying the Eurocentric remains inherited

from colonialism, and a reconstructive challenge which consists in revitalising the cultural possibilities of the legacies interrupted by colonialism. (Santos 2012)

CONTESTING CITIZENSHIP

CHALLENGING CULTURAL HOMOGENEITY: As described in section 1.1, nineteenth and twentieth century politicians in Latin America engaged in nation-building projects that aspired to create national unity. These projects were ultimately codified in national constitutions and shaped political behaviour towards indigenous peoples (Yashar 2005, p.288) In several countries such as Ecuador, Bolivia, Mexico, Guatemala, Colombia and Brazil, indigenous groups have demanded constitutional reforms recognizing the multi-ethnic and pluri-national composition of their countries. In most cases, these demands have provoked constitutional reforms that recognize the multi-ethnic makeup of Latin American countries.

At the international level, indigenous communities have not been traditionally regarded as differentiated communities with specific needs. It was not until after the world war period that indigenous groups started to organise and lobbying actively for the recognition of their rights (Stavenhagen 2002)

The Convention No. 169 of the International Labour Organisation, signed in 1980, promotes the recognition of ethnic heterogeneity where they had previously advanced nationalist aspirations of cultural homogeneity. It conceives of the Indigenous Communities from the perspective of the persistence of some or the whole of their social, economic, cultural and political institutions. This convention defines indigenous communities based on the principle of self-identification and establishes that the notion of land must comprise

the concept of territory perceived as a habitat. The Declaration on the Rights of the Indigenous Peoples, adopted by the United Nations General Assembly in 13 September 2007 encompasses some of the relevant topics of the struggles of Indigenous Activism around the globe; this Declaration is directed primarily to the protection of the right to self-determination, autonomy and self-government. It also refers to the protection against forced assimilation, and to the protection of collective rights and cultural heritage.

The recognition of cultural heterogeneity at the international and national level has opened the debate regarding different kinds of democratic institutions and diverse citizenry, as Stavenhagen says: "It has become clearer that what began as demands for specific rights and compensatory measures, has turned into a new view for the nation and the state" (Stavenhagen 2002, p.41)

The United Nations as a criterion for cultural distinctiveness adopted the principle of voluntary perpetuation. However, the issue of indigenous cultures and identities has raised a number of polemics because it puts to severe test the almost bi-centenary old idea of a single national culture. These tests are expressed in indigenous demands for "intercultural education" and the recognition of plural-ethnicity and multiculturalism at the constitutional level.

CHALLENGING INDIVIDUAL IDENTITIES AS UNITS OF POLITICAL REPRESENTATION

The demands of the Indigenous groups imply the recognition of collective rights, that is, rights that can only be enjoyed collectively by its members, this raises the question of how

to accommodate collective rights based on a differentiated identity, without undermining the full recognition of their individual rights as citizens in a modern state.

The question how to accommodate collective rights within a liberal framework has been the object of study of several scholars, like Kymlicka. The liberal requirement "all citizens should be treated equally" does not prohibit, according to Kimlicka, the existence of special, differentiated rights that are aimed to protect minority rights, and particularly, aboriginal rights (Kymlicka 1989)

Kymilicka's argument is based in the distinction between political and cultural community. Political community is the grouping within which individuals exercise their rights and responsibilities, cultural community is the grouping within which individuals form and revise their aims and ambitions. In many countries, political community and cultural community are not coextensive. This lack of co-extensivity, according to Kymlicka, implies that there are two different ways by which individuals may be incorporated into a liberal state: universally and consociationally. According to the former, each person stands in the same direction to the state and according to the latter; the nature of each person's rights varies with the particular community to which he or she belongs (Tomasi 1995)

The concept of culture is central to Kymlicka's argument. Culture is understood as a particularly distinct way of life that provides each member with a number of options in order to make valuable and significant decisions, in other words.

> "A cultural community is recognized as a concept of choice. Cultural membership is "a good in its capacity of providing meaningful options

> for us, and aiding our ability to judge for ourselves the value of our life plans" (Kymlicka 1989, p.166)

In order to guarantee the freedom of each member of the cultural community to make significant choices, it is necessary to provide measures for the protection of their culture as a context of choice. Kymlicka's argumentation is not free from criticism, Tomasi points out to the fact that some aboriginal communities are historically "*outside of liberalism*": the social and political understandings that emerged in some societies are or might be dramatically unlike the understandings promoted by liberalism (Tomasi 1995)

Elaborating a justification for a liberal recognition of certain protective measures raises a whole list of complicated questions: 1) Are aboriginals truly "outside of liberalism"? 2) What does this assertion means? And furthermore, 3) is liberalism an imposition upon those cultures that disrupts their own cultural historical process?

In practice, nation-states and international organizations have been slow and cautious in recognizing the collective rights of ethnic minorities. According to Santos nation-states tend to see the recognition of collective rights as a challenge to the monopoly of the state in producing and distributing law (Santos 2002) the resistance to recognizing collective rights within the legal framework might be symptomatic of the incapacity of the current paradigm of providing strong answers to the strong questions that indigenous claims entail.

CHALLENGING ADMINISTRATIVE BOUNDARIES WITHIN THE STATE: THE QUESTION OF AUTONOMY

Indigenous movements have increasingly demanded state's recognition of their territorial boundaries in which social relations are regulated by indigenous authorities (Yashar 2005)

however, indigenous communities have not struggled to emancipate entirely from the authority of the state. Santos asks if this is because indigenous peoples regard as unrealistic the possibility of secession (or even detrimental), or because ultimately statehood is a culturally alien concept to them (Santos, 2002, p.248).

According to Yashar, the issue of creating legal frameworks for institutionalized autonomy and pluralism is an area where political agenda meets unknown territories (Yashar 2005) as it remains unclear how to harmonize and equilibrate different systems in a coherent, democratic, and sustainable way (2005:299). It has been noted that defending local autonomies and traditional practices within an institutional and democratic framework might have negative effects for certain groups even within indigenous societies: gender relations are particularly relevant in this regard. As Yashar observes

> "Local autonomy does not necessarily advance gender equality and might work against it. Consequently, the post-liberal challenge could simultaneously increase local autonomy (a liberal good) and decrease local tolerance (an illiberal outcome). (Yashar 2005, p.300)

This problem, however, reminds us of the idea that we are living in a time of strong questions and weak answers. The general solution to the problem of possible illiberal outcomes has been to establish a limit to indigenous autonomies as in the case of Article 2 of the Mexican Constitution:

> Article 2 Constitution
>
> *"…"*

> *This Constitution recognizes and enforces the right of indigenous peoples and communities to self-determination and therefore their autonomy to:*
>
> *I. Decide over their social, economic, political and cultural organization.*
>
> *II. Apply their own regulations and solve their own conflicts according to their own rules,* ***the general principles supporting this Constitution, the fundamental rights and specially, the dignity and integrity of women. (the emphasis is mine)***
>
> **"…."**

According to Santos, a weak answer to a strong question is formulated only within the scope of possibilities of the current paradigm. In the case of Indigenous autonomy, which is a strong question, the solution has been to create a constitutional limit ultimately grounded in international law in order to prevent cases of fundamental rights being damaged by the application of indigenous autonomy.

CHALLENGING EQUATIONS BETWEEN NATION, STATE AND LAW

THE ELEMENTS OF THE STATE: TERRITORY, POPULATION, AND GOVERNMENT:

The ideal definition of the state implies a complete identification between the State and its population: cultural, social and economic uniformity as opposed to diversity (Stavenhagen 1998)

The conceptualization of the term "peoples" is extremely relevant for Indigenous groups: the conceptualization of indigenous groups as peoples has originated one of the most relevant tensions between the current paradigm and the implications of Indigenous rights, the possibility of political, legal and sociological diversity within a State.

The recognition of territorial lands and the free access to natural resources is absolutely central to the claims of Indigenous movements. It is connected with the most basic needs for cultural and physical survival of the Indians (Grote 1999). It has been argued that the fundamental reason for this particularity is the special connection of Indigenous Peoples with the spaces that they have traditionally occupied and possessed. Indigenous communities are not only economically and geographically connected to the land; land is intertwined with their particular cosmogony and the holistic view of life, land and environment (Aguilar et al. 2011)

Although other social movements (such as the Landless Worker's Movement in Brazil) have strived to achieve the recognition of rights related to the possession of land, there is a very specific qualitative distinction between these movements and the newest trend of indigenous resistance: indigenous movements claim that the possession of traditional lands is essential not only to their material wellbeing, it is absolutely necessary for the continuity of their cultural heritage since their identity is deeply rooted in the land. Consequentially, land cannot be perceived as merely the source for natural resources required for

subsistence, it is also something that cannot be individual owned nor negotiated. The protection of traditional lands and specific forms of collective ownership has always been central to the agenda of indigenous organizations. (Groter 1999)

Conceptually, the recognition of territorial rights is connected to the access to resources that have been traditionally used in specific and distinctive forms. To indigenous groups, the notion of natural resources encompasses renewable and non-renewable resources such as water and woods. Indigenous groups claim a broad number of rights related to land: property, possession, occupation, control, administration, conservation, development and access (Aguilar et al. 2011) Some Indigenous groups have claimed rights regarding to territories in which they do not necessarily inhabit. At the International level, both the Convention 169 of the ILO and the United Nations Declaration on the Indigenous Rights, mention a number of rights and obligations regarding the issue of traditional land. Both instruments recognize the existence of systems and traditional ways of possessing the land particular to Indigenous groups. It is commonly accepted that Indigenous groups are connected to the land not as individuals but as collectives (Aguilar et al. 2011) in Mexico, the recognition of the right to traditional lands was implemented ever since the creation of the 1917 Mexican Constitution in which a specific kind of collective property called *ejidos* was established as part of the legal system, however this was done without referring directly to the specific needs of Indian Communities (Groter 1999)

Although there is a formal recognition of territorial rights, in reality this is not applied. The rights of Indigenous peoples with regard to their land have been constantly challenged by other individuals and groups. Furthermore, in some cases the traditional lands of Indigenous groups have been classified as rich in natural resources that are particularly

appealing to transnational corporations. This generates a tension between very different interests that can be translated as the confrontation of different worldviews.

BROADENING THE TIME-SPACE OF LAW: LEGAL PLURALISM: Another aspect that can be perceived as a challenge to received assumptions of the ruling paradigm of the state, is the recognition of indigenous forms of administrating justice based on traditional worldviews.

The recognition of a continued existence that precedes the arrival of European colonisations raises a number of questions. The significance of customary norms and institutions of indigenous groups is still a matter of debate: should these "norms" be recognised or even formally incorporated into the national legal system?

A differentiated treatment based on the recognition of a different cultural framework is perceived as a contradiction with the liberal foundations of modern societies. The existence of privileges was one of the evils against which the liberal movements of the nineteenth century rebelled: the uniform application of law is one of the foundations of a liberal modern state (Groter 1999)

However, as it has been mentioned above, some authors have advanced some theoretical arguments within a liberal framework, in order to articulate a differentiated form of citizenship: that is the case of Young (1995) and Kymlicka (1995). The central idea of their argument is that, instead of promoting difference and inequality a differentiated form of citizenship will promote equality and will foster the possibility of participating in public life in equality of conditions.

The validity and applicability of customary law is recognized in international instruments such as the convention 169 of the International Labour Organization. This instrument proposes a number of rules of applicability within the legal system of the state. There is a limit, however, to the applicability of customary law: according to the article 8 of the convention, customary law is recognized as long as it is compatible with fundamental rights and the human rights internationally recognized:

> Article 8
>
> (…)
>
> 2.-These peoples shall have the right to retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights. Procedures shall be established, whenever necessary, to resolve conflicts which may arise in the application of this principle.
>
> (…)

Although the Mexican constitution formally recognizes the existence of customary forms of administrating justice, and expressly prescribes that in agrarian suits and proceedings involving indigenous communities the legal practices and customs of the communities have to be taken into account, there is not a specific secondary law that regulates the implementation of this constitutional provision. Other legal systems such as the Bolivian and the Ecuadorian, which have sophisticated procedures in regard to the applicability of customary law (Aguilar et al. 2011)

At this point, it becomes necessary to connect the concept of custom with the previously explored concept of culture. Customary law, as understood by the western culture, has been explained as opposed to statute law or "codified" law (Tobin 2014). However, it is necessary to consider that the mere definition of "customary" law can be perceived as an imposition and a form of conceptual colonialism. Tobin has even been suggested that the term customary law is no longer appropriate to describe indigenous legal regimes (Tobin 2014) More important is the suggestion that the link between law and custom encompasses a range of traditional behaviours some of which "have nothing whatever to do with law" (Renteln and Dundes 1994)

The difficulties in defining the term customary law are a reflection of the polysemy of the concept "custom" and also a reflection of the existence of a different legal tradition that has existed alongside the world's dominant legal tradition, but has been neglected until very recently. Glenn suggests as an alternative the term "chthonic law", this definition would recognize the laws of peoples "living in or in close harmony with the earth" (Glenn 2000)

It can be argued that the difficulties in framing the notion of indigenous customary law parts from the fact that these customs are part of a wider differentiated worldview. Worldviews have been described as mental lenses that are entrenched ways of perceiving the world. (Olsen, Lodwick & Dunlap 1992) Hart defines worldviews as "cognitive, perceptual and affective maps that people continuously use to make sense of the social landscape to find their ways to whatever goals they seek" (Hart 2010, p.2) there are two reasons why this definition is particularly relevant; 1) it regards Kymlicka's theory of multicultural citizenship, where the good that is protected is precisely the freedom of

making choices and 2) it also reveals a fact that is often overlooked; that the study of indigenous cultures is often being carried out from the outside of the culture itself.

There have been attempts to identify the main principles of indigenous worldviews, according to Simpson (Simpson 2000 cited in Hart 2010) these principles are: 1) knowledge is holistic, cyclic and dependent upon relationships and connections to living and non-living entities 2) there are many truths, and these truths are dependent upon individual experiences 3) everything is alive 4) all things are equal 5) the land is sacred 6) the relationship between people and the spiritual world is important and 7) human beings are least important in the world. According to Graham these worldviews focuses on relationships between people and other entities (Graham 2002). They can be described as "relational". A relational worldview, according to Hart, emphasizes spirit and spirituality and in turn, a strong sense of community (Hart 2010)

In describing the characteristics of indigenous worldviews, I have tried to emphasize the idea that law, customs, and traditions are connected with other aspects of social life. Under this perspective, law appears as mixed with other aspects of social life such as health and education, from the point of view of a "relational worldview".

I have attempted to analyse carefully the notion of worldview in order to connect it with the topic of legal pluralism. The purpose of doing so is twofold: first, underline the idea that when they are acknowledged, if they are acknowledged at all, Indigenous worldviews are analysed most often through a Eurocentric point of view which tends to marginalize native worldviews. The second purpose regards the topic of legal pluralism, Santos defines legal

pluralism as "the coexistence, within the same geo-political territory, of a modern, Westernized, official, state legal order, with a plurality of local traditional or recently developed, non-official, community-based. Legal orders*"* (Santos 2002, p.239)

The concept of legal pluralism challenges the notion that the nation-state is the only time-space of law (Santos 2002, p.85). It suggests that there are other times-spaces, at the local and the global level that were formally declared as non-existent by the hegemonic liberal political theory. In the following lines I will attempt to make a brief analysis of the notion of legal pluralism in order to explore its implications for the emancipatory potential of indigenous movements. Certainly, the problem of legal pluralism implies the identification at least of the structural elements of law, according to Santos, these elements are: rhetoric, bureaucracy and violence (Santos 2002, p.83)

Rhetoric, as a structural element of law, is a form of communication and a decision-making strategy, based on persuasion or conviction, through the mobilization of the argumentative potential of verbal and non-verbal sequences (Santos 2002, p.83) Bureaucracy is a form of communication based on the sum of regularized procedures and normative standards and is the most prominent element of state law. Violence is a communication form based on the threat of physical force; it is conceived as a prerogative only of the state in order to enforce law. According to Santos, there are different ways in which these elements are articulated: co-variation, geopolitical combination and structural interpretation (Santos 2002, p.87) Co-variation refers "to the quantitative correlation among these structural components in different legal fields", for example, in criminal law, violence is the dominant component. Geopolitical combination refers to "the internal distribution of rhetoric, bureaucracy and

violence", it focuses on the dominant component of a specific articulation, for example, voluntary adherence based on persuasion (rhetoric) or based on the violent exercise of power. The third form of articulation, structural inter-penetration, consists of the presence and reproduction of a given dominant element inside a dominated one, for example the presence of rhetoric in the justification of violence. The relevance of this analysis for my argumentation is this: that there are several forms in which the basic elements of law are articulated, and there are several time-spaces for this articulation. State law, as one form of articulation of the elements of law, is just a particular pattern of articulation among others, in other words, law is broader than it has been considered by the hegemonic paradigm.

Historically, the identification of state and law is relatively recent. Before the XVIII century, law was principally fragmented and there were as many forms of regulation as relevant subjects of law (clergy, nobility, military). It was not until the end of the XVIII century and the beginning of the XIX century that based on the principle of equality, every member of the society was put in the same formal position before the legal order. According to Twining, legal pluralism should be understood as a species of normative pluralism, and understanding it as such helps to understanding this phenomenon better as well as it de-centres the state. He suggests that the world "pluralism" is commonly used in three different ways in legal contexts: as a synonym for diversity, as applied to multiple perspectives, and connoting the co-existence of multiple orders or collections of norms in the same context. However, none of these usages involve commitment to the idea of "multiple realities" (Twining 2000)

However, legal pluralism implies the recognition of multiculturalism in a deep sense, that is, culture as a total way of life is recognized in its diversity within a particular

geographical space. It also implies the broadening of the definition of law: it doesn't refer only to the set of norms that are produced by the state. This opens the door for the recognition of indigenous legal orders, which has been an explicit or implicit claim of indigenous movements.

Legal pluralism as a social fact has been studied largely from a descriptive perspective rather than normatively, however, it has been a first step (and quite a radical one) to acknowledge the existence of legal orders that are not state centred. These legal orders appear at the infra-state level and also at the supra-state level. It is necessary also a distinction between "emancipatory forms" and "non-emancipatory forms of legal pluralism. This distinction along with the dynamic between the global and the local will be discussed in the next sections.

CONCLUSIONS:

In this section I have attempted to explore the significance of indigenous claims, parting from Santos' assertion that indigenous movements of resistance are an example of a "strong question" that cannot be answered within the current paradigm. The role of law is central in this "period of paradigmatic transition". According to Santos, we are currently witnessing a paradigmatic crisis of law characterized by the broadening of the notion of law (Santos 2002, p.10). Legal pluralism studies the variety of ways contemporary constitutions recognise and accommodate cultural diversity. According to Tully, the demands of the 250 million Aboriginal or Indigenous peoples of the world for the recognition and accommodation of their diverse cultural practices and forms of government are an exemplary of the phenomenon of "strange multiplicity". The study of their struggles of

indigenous peoples can bring into light unnoticed aspects of the limitations of constitutionalism to the extent of actually transforming the way we think and theorize about it (Tully 1995)

These limitations have been summarized in the present section, in order to establish the theoretical grounds of the research question of this dissertation. I have attempted to classify these limitations according to the following criterion: 1) how the common understandings of citizenship are expanded by indigenous claims, and 2) how accepted equivalences between state, nationhood and law are being challenged by indigenous movements. The importance of culture has been emphasised because it regards the subjacent problem of these challenges: the recognition of the multicultural fabric of modern societies. The challenges that indigenous peoples represent to the current paradigm, according to these findings, can be summarized as follows:

- Indigenous claims represent a challenge to the building nation-project that represented the states as culturally homogenous.
- Indigenous groups have claimed the recognition of their rights as "peoples", based on collective representation. There have been attempts to accommodate the notion of rights associated to culture within a constitutional structure. Kymilcka's proposals have been one of the most recognized attempts to do so. However, the viability of this proposal has been questioned on regard with the claims of indigenous peoples, furthermore, it has been questioned whether Kymlicka's theory of citizenship is applicable to the case of Latin America, since these societies are not liberal-democratic in the same sense and with the same reach as in North America (Serrano Sánchez 2007) . In a deep sense, Kymlicka assumes that liberalism is still the best framework for promoting liberal

rights. His theory is still enclosed within the current paradigm, which fits the model of a "weak-strong" answer to a strong question; however it is still valuable in pointing out the limits and contradictions of the ruling paradigm.

- A central aspect of indigenous claims is the recognition of territorial autonomy. Based on a particular worldview, indigenous groups relate to the land in a completely different way than western cultures. This is because of the "relational worldview" in which land is not only sacred, it is the source of all kinds of life and it cannot be subject to appropriation. Territorial claims are central aspect of the way in which indigenous claims represent a challenge to the current paradigm.
- Indigenous claims represent a challenge to the commonly accepted equivalences between state and law. According to Santos, the *"legal field in contemporary societies and in the world system as a whole is a far more complex and richer landscape than has been assumed by liberal theory"* (Santos: 2002, p.86). Indigenous legal systems have coexisted with official legal systems, as an example of what has been called legal pluralism. However, indigenous legalities are framed within a particular worldview, to these groups; the legal dimension is just another dimension of social life. There is a need of re-evaluating the ways in which indigenous cultures are represented in a constitutional framework, even if this leads to looking beyond the existent paradigm. As Santos indicates, law is not reduced to state law nor rights to individual rights (Santos 2002, p.465).
- In the case of indigenous claims, culture is central. These cultures have been oppressed for centuries and in most cases have not been fully recognized. The *politics of invisibility* towards these cultures has led to the existing situation in which their claim for recognition challenges the dominant paradigm. The main finding of this section is

this: accommodating indigenous claims within a liberal framework (as for example Kymlicka's view) is problematic. According to Santos's model, this is because indigenous claims represent a strong question that cannot be readily answered within the current paradigm.

In the next section I shall attempt to analyse the ways in which indigenous movements have articulated these challenges, in order to identify the connection between theory and practice

INDIGENOUS ACTIVISM AS COUNTER-HEGEMONIC GLOBALISATION

TACTICAL CONCESSIONS AT THE STATE LEVEL, AS A RESULT OF SUCCESFUL MOBILISATION AT THE GLOBAL LEVEL

Indigenous peoples are increasingly engaging in politics, with dynamism and creativity; these movements often challenge the silences and shortcomings of several disciplines such as international studies. (Morgan 2011) The creativity and dynamism of these movements becomes evident when engaging in struggles against acts of the authority or transnational corporations, perceived as a threat against their culture and their way of life. According to Picq (2014) these movements have recently focused on resisting extractive projects on their autonomous territories, in doing so, they have employed different mechanisms such as; large mobilized protests, invoking international law and enabling alternative mechanisms of authority.

As Picq indicates, local protests against extractive project have special significance; these movements are becoming part of larger efforts to gain more attention and to transform these struggles into international politics. According to Brysk (2007) indigenous communities

have been able to mobilise successfully at the global level thanks to international networks of advocacy which constitute the basic level of their networking, however, based on the "spiral model" proposed by Risse, Ropp and Sikkink (2013) it seems that these movements have reached a phase of "symbolic recognition" expressed in the official legal systems. However, these reforms are not being effectively enforced. The lack of enforcement is due, in the best of cases to the non-existence secondary laws, or in the worst of cases, to a lack of political will.

The "spiral model", suggested by Risse, Ropp and Sikkink, divides the development of social movements for human rights into several phases:

1) Repression: During this phase, the leaders of authoritarian regimes engage in repression. It's characterized as a state of oppression and abuse against the society or some sectors of it.
2) Denial: If transnational groups succeed in gathering enough information on human rights violations, there is a second phase known as denial. The oppressor denials the state of repression and thus is unwilling to submit themselves to international jurisdiction. This phase, however, opens the door to the process of internationalization of the problem.
3) Tactical concessions: This phase is characterized by the state's use of "tactical concessions". These concessions are merely symbolic or strategic and are not really aimed to giving significant concessions.
4) Prescriptive status: this phase is characterized by a defined set of state actions and practices, such as ratifying international treaties.

5) Rule-consistent behaviour: This phase is characterized by behavioural changes and sustained compliance with international rights. According to Risse et al. there is a two level process at the domestic and international level. Sustainable change is consistent with international rules and is perceived as the result of local pro-change groups being able to leverage international support, in such way as to eventually triumph over their domestic opponents.

Brysk observes that, after a generation of struggles, indigenous movements have reached a phase of "tactical concessions" from the states. However, these concessions are not reflected upon the actual structural policies of the states and behavioural changes (2007)

INDIGENOUS ACTIVISM HAS BECOME GLOBAL

One of the most documented cases of indigenous struggles: the *U'wa* community's battle against the oil companies is a good example of a local struggle successfully turned global. (Arenas 2007)

The U'wa people, a small indigenous community in Colombia, engaged in a battle against the American oil company Occidental Petroleum Corporation, and more recently, against the state owned owl company ECOPETROL. The conflict started because these companies attempted to drill oil on the ancestral lands of the U'wa people known as the "Samoré Block" (Arenas, 2007, p.120)

Although the conflict for the lands started in 1991, the U'wa case did not gain international relevance until 1995, when the Ombudsman's Office took their case against the oil companies in the highest court. Since then, the movement gained force and spilled over the national borders. According to Arenas, there are several reasons for this: on one hand, the

legal changes at the national and international level affecting indigenous peoples' rights, the signing of the International Labour Organization (ILO) Convention #169, and the 1991 changes in the Political Constitution of Colombia. These legal instruments served as a continuous reference for the issue of the oil found on the Uwa's territory.

Arenas narrates, the dramatic strategy of the U'wa people of threatening mass suicide on 1995:

> "Facing certain death as a result of the loss our lands, the extermination of our natural resources, the invasion of out sacred places, the disintegration of our families and communities, the forced silence of our songs and the lack of recognition of our history, we prefer a death with dignity: THE COLLECTIVE SUCIDE OF THE U'WA COMMUNITIES. This type of death corresponds with the pride of our ancestors who challenged the domination of the conquerors and missionaries (Uwa Communiqué, 1995, in Arenas 2007:127)

Although initially the suicide threat was effective in attracting both national and international attention to the U'wa case, many individuals and organizations were sub-sequentially struck by the richness, originality and "emancipatory" potential of their discourse and struggle: as time goes on, the issue of group suicide is less frequently cited on regard with the U'wa case.

According to Arenas, the circumstances that led to the successful trans nationalization of the U'wa case are: 1) strong cultural heritage; 2) collective pride and incredible ability to speak as a group, as well as the talent for adapting the presentation of their arguments to

different interlocutors; 3) the extensive use the U'wa made of public communiqués and open letters to the public opinion and other recipients; 4) the existence of a national and international human rights movement focused on Colombia, with extensive experience in legal work and lobbying, national and international contacts and resources that helped to support and build promotional networks and; 5) the fact that Occidental Petroleum's headquarters were located in the U.S., a hegemonic global power and key player in Colombia's economic and political affairs. (Arenas 2007, p.143)

Arenas observes that the oil conflict arose at a time when the U'wa people were immersed in a process of reconstructing their cultural identity, which led to consolidate their social organization and a willingness to fight to recover a large portion of their ancestral lands. In case like this, there is a complex process of institutional, administrative and legal developments that can be activated at the local and the international level. Furthermore, as currently the oil exploration of the U'wa territory has reached a more static phase, the U'wa people have started to focus on strengthening their own community, including new projects on education and health with the support of international NG0´s, this indicates the way in which the existence of a conflict can mobilise indigenous groups not only towards the outside, but also internally in order to evaluate and revitalize their own cultural values. According to Tilly, social movements combine three types of claims; program, identity and standing. Program claims involve the support to actual or proposed actions based on the objects of the movement. Identity claims constitute the assertion that the claimants represent a unified force. And standing claims assert similarities and affinities with other political actors (Tilly & Wood 2013, p.152). In the case of Indigenous movements, the salience and relevance of program, identity and standing claims varies on regard with other

movements, internally, and among phases of the movements themselves. According to Tilly, the case of campaigns on behalf of indigenous peoples rights illustrate the way in which professionalization and the creation of networks at the global level sometimes leads to new identity and standing claims. Identity claims have become central in indigenous movements, as they are based on the struggle for cultural survival (Tilly & Wood 2013, p.153)

CULTURAL VALUES AND INDIGENOUS ACTIVISM

Cultural values, according to Radclife, are the base of what has been conceptualized as "Social Capital"; this concept can be applied to Indigenous Organisations in order to gain insight into their achievements and challenges (Radcliffe, 2007, pp.31-57). Social capital can be defined as *"the social glue or the number of norms and social relations enshrined in the social structures of the society, which allow individuals to coordinate their actions and achieve their goals"* (Radcliffe 2007). The social capital model applied to the specific aspect of indigenous communities leads us to find the source of legitimacy of indigenous movements in the shared values, cyclic communal rituals and moral concepts of social organisation, furthermore, attachment to the land and cultural heritage are the main sources of Indigenous resistance; indigenous communities usually represent themselves at the global level in such terms. However, indigenous ways of knowing the world are not necessarily articulated in the language and strategies of Indigenous resistance.

As indicated above, the views and hopes of indigenous organizations are not necessarily mirrored in counter-hegemonic policies (or apparent counter-hegemonic policies) that are aimed to the amelioration of inequality and to the fostering of social justice. Although

indigenous movements, as well as most social movements might share the desire to curtail neoliberal policies and implement social and economic strategies, that would benefit the majority of the people, it is possible that their views clash with the government views on how to implement such policies. Such is the case of Ecuador, where a new constitution was approved in 2008 under the guidance of the president Rafael Correa. According to Becker, when Correa made a call for a constituent assembly, indigenous leaders became concerned that the President was occupying political spaces that they had previously occupied (Becker 2011)

Indigenous movements operate in a co-operative framework; their strength is based on the collective representation of their group interests. However, Correa emerged out of a liberal framework that emphasized individual rights, namely, a citizen's revolution which was not built by social movements. The Indigenous Organization CONAIE (Confederation of Indigenous Nationalities of Ecuador) argued that the presidential emphasis on individual rights excluded communal based points of view; according to the indigenous point of view, the citizens' revolution was nothing but a reinforcement of colonial and liberal ideologies that continued a paradigm of oppression and disregarded the uniqueness of indigenous nationalities. As a response, Indigenous activists forwarded instead a response that emphasized collective control over land a natural resources (Becker 2011, pp.48)

The tensions between Correa's government and indigenous movements are an indicator of the deep tensions inherent in pursuing revolutionary changes; a regime that promises to limit the power of the oppressor and appropriates the language of social movements without promoting actual counter-hegemonic reforms (such as the recognition of a more inclusionary political system) might actually have negative effects on the aims of

indigenous struggles. The Ecuadorian experience is an example of how indigenous movements have to be very cautious in working alongside the government, political action implies a number of trade-offs and alliances that can potentially undermine the effectiveness of the emancipatory potential.

WHAT IS SUBALTERN COSMOPOLITANISM AND HOW IS IT COUNTER-HEGEMONIC

As it was discussed in section 1.5, counterhegemonic globalisation refers to "*the growth of transnational connections [that] can potentially be harnessed to the construction of more equitable distributions of wealth and power*" (Evans 2005) According to Santos, counter-hegemonic globalisation is focused on the struggle against social exclusion, the cultural and political form of counter-hegemonic globalisation, is expressed in the form of "*Subaltern cosmopolitanism*" (Santos 2002, p.460).

One of the best illustrations of a struggle against social exclusion in the name of an alternative globalisation is the Zapatista movement, this movement proposed to ground the struggle against social exclusion in a "*new civilizing horizon*", by focusing on humanity, dignity and respect. Santos suggests that the Zapatista movement contributed to subaltern ideas in four different ways (Santos 2002, pp.461-465):

1) The core of the struggle was not based on economic exploitation. According to Santos, exploitation is just one of many faces of oppression. The most damaging outcome of oppression is exclusion, this leads to *humanity centred* struggles rather than *class-centred struggles*. The emancipatory nature of one struggle, according to these ideas, concerns all of the other struggles.

2) The second novelty can be summarized as follows: hegemonic globalisation promoted equality as "equivalence" and homogeneity. This view of equality ended up excluding alternative views of the world, for example; workers' movements achieved a number of concessions. However, the radical potential of their struggles ended up being neutralized by a restrictive European historical reality that understands the human rights movement as divided into generations. The Zapatista proposal, according to Santos, eluded the trap of human rights being divided into generations and formulated their claims as a "new civilizing project"
3) The third novelty consisted in a reactivation of the ideals of democracy from a counter-hegemonic stance. According to Santos, the Zapatista movement, in recognizing the diversity of struggles, recognized that there are many struggles as there are oppressors. Therefore, there is no way to unify all of them. However, there is no need to unify because "there is no goal, but rather a horizon". What is a stake is the need to encompass several conceptions of social emancipation grounded in different cultures and worldviews.
4) The fourth novelty of the Zapatista movement, according to Santos, was to acknowledge the vast social fields of operation that are opened, once it's accepted that rebellion and not revolution is the key issue. Santos suggests that there are as many struggles as there are circumstances of exclusion, consequentially, it is neither possible nor necessary to elaborate a unified theory of revolutionary movements.

Subaltern practices are counter-hegemonic as long as they are able to make the world less and less comfortable for global capitalism (Santos 2002) in contrast, these movements

become hegemonic as soon as global capitalism manages to co-opt these movements' means and transform then for the sake of its own reproduction.

THE USE OF HEGEMONIC INSTRUMENTS WITH COUNTER-HEGEMONIC ENDS

One of the key strategies of indigenous movements has been to engage in legal practices, for instance, two legal suits were filed on behalf of the U'wa people on 22 August 1995 against the environmental license granted in favour of the Oil Company (Arenas 2005, p.129)

Santos proposes that, under the perspective of subaltern cosmopolitanism, law is not limited to state law this does not mean, however, that law and individual rights are to be excluded from cosmopolitan legal practices. A non-hegemonic use of hegemonic tools is premised upon the possibility of integrating them in broader political mobilisations that may include other actions such as civil disobedience, strikes, demonstrations or media-oriented performances (Santos 2002, pp.466-467)

There is another aspect of social movements; social movements as counter-hegemonic phenomena have a different pace and rhythm than that of hegemonic institutions and actors, such as the judiciaries and politicians (Houtzager 2005). As it became evident when analysing the "Movement of the Landless" in Brazil; court procedures are bounded by formalities and deadlines, while social movements are often vibrant and chaotic at the beginning as the expression of social discontent. Houtzager observed that social movements can potentially transform collective energy into juridical energy and produce substantial legal change when they promote novel interpretations of hegemonic principles as these

interpretations are institutionalized trough jurisprudence; such is an example of the use of "hegemonic" tools in a counter-hegemonic fashion. However, the opposite is also truth, according to Santos; non-hegemonic forms of law do not necessarily favour or promote subaltern cosmopolitanism (Santos 2002)

"Non-hegemonic" does not necessarily means "counter-hegemonic", which is the case of new forms of global legality "from above" produced by powerful transnational actors. What is most relevant is the idea that not necessarily legalities generated from below –as in the case of traditional law or indigenous law-, are counter-hegemonic. There is always the risk of these movements being used in conjuncture with state-law to pursue exclusionary purposes as in the case reported by Arenas: the CONAIE and the Ecuadorian government.

THE CONTACT ZONE OF INDIGENOUS PEOPLES: THE TRADITIONAL AND THE MODERN

According to Santos contact zones are "*social fields in which different normative worlds meet and clash*" (Santos 2002, p.472) Pratt defines contact zones as "*social spaces where disparate cultures meet, clash, and grapple with each other often in highly asymmetrical relations of domination and subordination*" (Pratt 1992, p.4)

In the case of indigenous peoples, the contact zone is expressed into the dichotomy tradition/modernity. Santos holds the view that the external and internal boundaries of this contact zone has been defined by Western modernity. In other words, that western modernity has defined what is modern and what is traditional. "The traditional is as modern as modernity itself" (Santos 2002, p.475). This dichotomy was actually one of the organizing principles of the colonial rule and even continued in the post-colonial period.

However it has also been appropriated by subordinate groups against post-colonial oppression: many indigenous groups have made use of the cultural discourse in order to justify their resistance, in this view, the dichotomy tradition/modernity, can be used both in hegemonic and counter-hegemonic fashions.

ARE HUMAN RIGHTS COUNTER-HEGEMONIC?

Many authors have questioned the true emancipatory potential of human rights politics in a context of globalisation and fragmentation of cultures and identities. It has been suggested that human rights can and have been used to advance both hegemonic and counter-hegemonic forms of globalisation. (Pannikar 1984; Rajagopal, 2006; Santos 2002)

Santos has suggested the necessity of finding mutually intelligible notions such as human dignity, that can be translated (although not perfectly) from a culture to another. This process of translation is conceptualized as "*diatopical hermeneutics*" which would be focused on communicating aspirations and concerns mutually intelligible. Engaging in a process of mutual translation would be a first step to overcome what seems a rival conception. For instance, indigenous claims are based in the recognition of group and collective rights, a view that has been trivialized by "demo/liberal legality" (Santos 2002, p.475) cosmopolitan legality would be focused on the conciliation between these views.

Indigenous groups have used, in some cases very effectively, the languages and instruments of international law. The use of the Convention 169 of the International Labour Organization, in which the right to consultation is recognized, is a very illustrative example. As Santos proposes, cosmopolitan human rights in the contact zone are to be carried out and struggled for by actors at different levels: local, national and globally. Human rights

have to become part of cosmopolitan emancipatory projects, without becoming the exclusive source of legitimacy. Concordantly, Rajagopal argues that International Law has not been used exclusively as a counter-hegemonic tool, on the contrary, in many cases it is being used as a devise to legitimize actions and politics that are actually hegemonic (Rajagopal 2006)

CLAIMS BASED ON CULTURAL RECOGNITION OR CLAIMS BASED ON CLASS CONFLICTS

The significance of Indigenous Activism in the democratisation processes in Latin America has not been free of contradictions. The two main strategies to gain political power and cultural rights have been to emphasize class and economic issues or to stress cultural identity, according to Eckstein and Wickham Crowley (2003, pp. 257:284) the former constitutes a demand for social justice and equality among citizens and the latter constitutes a demand for social justice as recognition of difference. To what extend these two strategies are opposed or complementary is still a matter to be analysed. What can be perceived is that the speech of indigenous peoples has become more complex and sophisticated as it has gained political relevance, it becomes necessary to analyse specific indigenous movements in a case-by-case basis in order to determine to what extent they have attached more importance to the recognition of difference, or to the recognition of citizenship.

In addition to this problem, the territoriality of indigenous rights –combined with the fact that, by far, most indigenous peoples are peasants-, has led some authors to consider that the issue of indigenous rights should be subsumed under the issue of peasants rights or under the more general issue of the rights and laws of the oppressed (Santos 2002, p.246)

this establishes a dialogue in which indigenous groups have emphasized the preservation of their particular worldview and cultural heritage. In the following section I will analyse to what extent the Wixáritari have focused on this matter.

CONCLUSIONS:

In this section I have discussed some of the most relevant aspects regarding indigenous activism. Although it is not possible to discuss every aspect exhaustively I have attempted to establish the main points that are connected with the research question.

- In the recent decades, indigenous groups have successfully attained visibility at the international level, this success has been translated into international instruments such as the Convention 169 of the International Labour organisation, and into constitutional reforms at the national level (such is the case of article 2 of the Mexican Constitution).
- However, based on the "spiral model", Brysk suggest that these successes, as relevant as they are, are not being translated into behavioural changes and a deep conviction to recognize indigenous claims. It seems that indigenous claims have reached a limit in which the "symbolic" concessions are not translated into behavioural changes.
- In section 1 of this chapter, it was established that indigenous claims are counter-hegemonic. Using Santos's terminology, these claims represent a "strong question" in the sense that the horizon of possible answers within the current paradigm cannot provide deep and significant answers. In this section, I have discussed the main strategies and significance of indigenous movements. The U'wa people case is an

example of the importance of the ability of indigenous peoples to communicate their demands to different interlocutors.

- However, as illustrated in the case of Ecuador, the energy and impulse of indigenous activism can become appropriated by other movements and their demands be institutionalized in hegemonic fashions.
- The creation of transnational networks, as part of a "subaltern cosmopolitanism" opens the door for the further development of indigenous activism. As Santos suggests, one of the most important contributions of the Zapatista movement was to provoke dialogues and debates that goes beyond economic exploitation.
- It is not that the injustices of exploitation are irrelevant, however, regarding those injustices as part of another types of oppression has opened the door, according to Santos, for creating networks of activism and provoking debates at the global level that are not limited by the hegemonic distinctions of political and social rights.

The demands of indigenous groups are counter-hegemonic; however, the success of their mobilisations has not been completely counter-hegemonic for internal and external reasons. Externally these demands have reached a state of symbolic recognition from the states. International law and the human-rights discourse can be activated as hegemonic or counter-hegemonic tools. It becomes necessary to analyse the reach and significance of indigenous claims as based in their culture and worldviews, in order to identify their counter hegemonic potential.

CHAPTER 3: WIRIKUTA. ACHIEVEMNTS AND STRATEGIES OF THE "FRENTE DE DEFENSA"

BACKGROUND: BEFORE FIRST MAJESTIC

What has struck anthropologist the most, when investigating the Wixáritari (popularly known as "Huichols") is the great divide between the images this people has of the Mexican State, and that held by the surrounding "mestizo" population (Liffman 2011; Sitton 1996)

Furthermore, this contradiction becomes evident in the differing concepts of land and territory. For Wixáritari culture "territory" is a space, that encompasses not just the geographical space, it is a group of places socially produced with symbolic and spiritual connotations (Liffmann 2011) described as Sitton, is an "ideological oasis" and its most sacred space is Wirikuta, the place of dawn and the centre of their ceremonial pilgrimages. From the national society standpoint, Wixárika territory is divided into administrative unities known as "ejidos" communal lands recognized within the frame of the Mexican Constitution. There are also contradictory perceptions between the Wixáritari and the nation-state perceptions of their political and economic reality; Wixáritari regard themselves as independent, self-governing and in full charge of their lives. According to Sitton, in reality, Wixáritari are under the control of the Mexican State and its institutions. (Sitton 1996)

The history of Wixáritari has been one of resistance against different processes perceived as a threat against their culture: during the colonial period, the relationships with the catholic religion were marked by tensions and conflicts. According to Sitton, during this period,

they developed different strategies of resistance, some as subtle as moving away from the missionaries and isolating in more distant regions of the Sierra (Sitton 1996, p.472) In the post-colonial period these strategies continued to be carried out as a response to the politics of assimilation and acculturation propelled by the state.

Johannes Neurath, researcher of the Mexican National Institute of History and Anthropology, specialized in Wixáritari culture, has underlined their history of resistance, defining it as a living culture in which all of its members still speak their language, most of them are still actively living their religion, defending their autonomy and achieved a complex system of governance. Wixáritari culture is, according to Neurath, the culture that was less Christianised during the colony. At the international scale, they are one of the most well-known indigenous groups, defining their identity as undeniable indigenous at the global level (Angela 2011)

TERRITORY AND TERRITORIALITY: SACRED PLACES

For Wixáritari, the concept of territory has different meanings. One of these meanings refers to the territory that is occupied by their communities, which encompasses around 400,000 hectares, in the Sierra Madre Occidental, a mountain range in western Mexico. (Liffman 2011)

There is also what has been called the ceremonial territory, which encompasses much broader area of approximately 90,000 square kilometres throughout five different states of the Mexican Republic. According to Liffman, this territory is renewed and redefined by the ceremonial pilgrimages carried out by families, in order to reach the places where their gods were born. (Liffman 2011)

Territoriality, as defined by Liffman, refers to "the construction, appropriation, and control of territory" deeply engaged in social practice. In this sense, territory is not limited by unchanging coordinate, it shifts over time and is given meaning through human engagement with space. According to Liffman, native territoriality has become increasingly problematic as globalised markets consolidate and migration accelerates. New forms of understanding territoriality and are becoming a challenge to the classic image of the state as the legitimate source of control within a national territorial space (Liffmann 2011)

The assertion that indigenous territoriality represents much more than control of the land as natural resource, becomes more evident in the case of Wixáritari. To them, territory is defined also by ancient practices rooted in the place and language. According to Liffman, this culture has forged a very special relationship among territory, ancient ceremonies, historic memory, political discourse and the current neo-liberal legal framework: rituals, discourses and practices, according to Lifmann, are to be analysed in a broader context defined by state power, capitalism and struggles for the land at the regional level (Liffman 2011)

Wixáritari have defended their right to gain access to their sacred places; however, this claiming of their ceremonial territoriality has been the cause of many conflicts regarding the limits of their occupied lands. There have been conflicts with the *mestizo* communities of the surrounding areas and even among indigenous communities.

Wirikuta is a territory located in the North-western side of the state of San Luis Potosí. This area has an extension of 140,211.85 hectares and is 138.78 kilometres wide.[2] It's the centre of spirituality for Wixárika culture, although there is not a specific permanent occupation of this land. Each year a ceremonial recreation of the pilgrimage of their ancestors towards Wirikuta is performed. In this pilgrimage they carry out traditional ceremonies involving the use of *Peyote* (*Lophophowa williamsii*) or Hikuri, as they call it. (Liffman 2011)

MINING ACTIVIIES IN WIRIKUTA

Mining activities started in the last decades of the eighteenth century and extended to the early decades of the twentieth-century. These activities were carried out by several groups such as Spanish, Creole; Mestizo's and even English mining companies. These companies exploited the resources found in the hills located in the proximities of Wirikuta and located in the city of Real the Catorce (Frente en defensa de Wirikuta 2015,Web)

The most recent attempt to carry out mining activities has been carried out by the Canadian company "*First Majestic Silver Corporation*", which has released an implementation plan to develop mining activities in the proximities of Real de Catorce. First Majestic Silver, under the guise of Minera Real Bonanza, SA de CV and Minera Real de Catorce, SA de CV, has purchased at least 22 concessions for the exploitation of silver and other metals. These concessions were made regardless of the right to consultation regulated in the convention 169 of the ILO and regardless of the pact "*Hauxa Manaka for the Preservation and Development of Wixarika Culture*" that was signed by then-president Felipe Calderon only two years before the mining concessions were made official. (Barnett 2011)

[2] Plan de Manejo del Área Natural Protegida, "Sitio Sagrado Natural" "Huiricuta (sic) y la Ruta Historico-Cultural del Pueblo Huichol". Secretaría de Ecología y Gestión Ambiental, Gobierno de San Luis Potosí, México, Enero de 2008, Pág. 7

Furthermore, on December 2011 a bigger project was announced; the "Proyecto Universo", a mega-project of the Canadian company "Revolution Resources". This huge project aims to carry out mining activities on 59,678 hectares in the protected area of Wirikuta. This represents 42.56% of the total surface of Wirikuta.

It is not only a rich cultural heritage and identity that are at stake. It is also argued that the big amounts of water employed by mining activities would provoke the drying-up of watersheds. According the National Water Commission, these watersheds are already being over-exploited. Besides, the sacred springs of Wirikuta are at risk of being polluted with cyanide and heavy metal (Frente en Defensa de Wirikuta, Web)

"**FRENTE EN DEFENSA DE WIRIKUTA TAMATSIMA WAHAA" (WIRIKUTA DEFENSE-FRONT"**

As a response to human rights violations and the environmental menace that mining activities would entail, Wixáritari traditional authorities decided on 2010, to conform the "*Wirikuta Regional Council for the Defence of Wirikuta*", made up of representatives from various Wixáritari communities. Also, with the support and advice of NGO's the "*Wirikuta-Defence Front*" was formed by micro-entrepreneurs, mainly from the tourist sector and local-non-governmental organizations, was created as well. These organisations have provided with visibility and gained international solidarity in the defence of Wirikuta (Macias 2015)

According to Regina Lira, an anthropologist specialised in the Wixaritari people interviewed by Palma, the way in which the Regional Council is organised, mirrors the way

the communities are governed with no one post being more important than another; a democratic form of leadership (Palma, 2013)

The lack of a centralised leadership, according to Lira a strategy that has served the Wixáritari in the past: "it is one of the reasons they never were taken over by the Spanish. The Spanish never knew how to deal with". As Middleton-Detzner indicates some nonviolent campaigns organizes in such way in order to gain certain amount of protection and to avoid personal politics from becoming part of the movement. (Interviewed by Palma 2013)

Altough the Frente and the Council work together, it is the Council that takes the lead and authorises the next steps. These organisations have carried out different actions with great relevance at the regional and national level, and even at the global level: the delegates of the Wirikuta-Regional Council even visited the headquarters of First Majestic Silver Corp. on Vancouver, Canada, and they attended the United Nations Permanent Forum on Indigenous Issues in New York, carrying out meetings with its president; Mirna Cunningham and with the special rapporteur on indigenous issues, James Anaya (Cultural Survival, Web)

In 2011, the traditional authorities released a communiqué and handled three letters to the then-president Felipe Calderon. In these letters and communiqué, Wixárika people demanded the end of all mining activities in the sacred land of Wirikuta. On October 26 and 27th, 2011, the conferences "*Save Wirikuta, Sacred Hearth of Mexico*" took place in Mexico City. Representatives of all the communities attended and many activities were carried out in the National University of Mexico (UNAM). Many Wixárika representatives

signed and submitted a list of demands to the Mexican authorities (Frente en Defensa de Wirikuta, Web)

On February 6-7th, 2012, many ceremonial representatives of the states of Nayarit, Jalisco and Durango, celebrated a historical meeting at Wirikuta. In this unprecedented ceremony these groups renewed their spiritual vows for the maintenance of the "candles of life". They carried out ceremonies where they consulted their ancestors and, according to their rites, the will of their ancestors was captured on the "*Declaración de Wirikuta*" (The Wirikuta Declaration). In such document they expressed their gratitude to national and international NGO's, the civil society and they also corroborated their commitment to pacific resistance. The Mexican representative of the High Commissioner for Human Rights, the Mexican Commissioner for Human Rights, and the State Representatives of Jalisco and San Luis Potosí participated as witnesses of this great spiritual ceremony, as well as prominent anthropologists, artists, scholars and news reporters (Frente en Defensa de Wirikuta, Web)

ADVOCACY OF THE "WIRIKUTA DEFENCE-FRONT"

As indicated above: the advocacy of the Front is based in two main perspectives: environmental protection and cultural heritage protection. Its advocacy strategy is based on nine demands: 1) Wirikuta should be declared as part of UNESCO Network of Natural Sacred Sites and protected in consequence. 2) Cancelation of any mining activity in Wirikuta and the prohibition of any administrative permission that granted his activity; 3) No new concessions should be granted in Wirikuta; 4) The Wirikuta reserve should be declared a Natural Protected Area; 5) All the Real de Catorce Range should be declared as a Cultural Landscape; 6) The pilgrimage path to Wirikuta should be protected under the

UNESCO's World Cultural and Heritage Convention; 7) Environmental rehabilitation should be ensure to protect the health of the inhabitants of Wirikuta; and 9) Allocation of federal and local resources aimed at improving the living conditions of the rural population of the region should be granted (Frente en Defensa de Wirikuta, Web, 2015)

The Front is organized into five different Committees: political and legal; environmental; communitarian work; artistic promotion and communication. The legal strategy has focused in the dispute before Federal Courts to cancel the concessions granted to the Canadian companies. However, in the long-term, the legal component aims to protect Wirikuta at the international level, by the declaration of the area as a cultural and national heritage, securing that no mining or any other industrial activities will be carried out in Wirikuta (Macias 2015)

On the other hand, the Front has designed a strategy based in the dissemination of the conflict and the Wixarika culture, the use of symbols and rites combined with the support of strategic allies, in the cultural, academic and political fields. The use of social media has been central as the main tool for raising awareness. Two of the most relevant actions, directly related with the dissemination of the Wixarika culture have been the organization of a massive concert on one of the most important concert venues in Mexico City, on May 26, 2012, intending to raise awareness on the defence of Wirikuta among young population. Other action has been the filming and screening of a full.-length film about the Wixarika people; "Huicholes, the last Peyote Guardians"[3], which has been screened in several cities and even recently, the filmmakers and two Wixarika shamans, started a tour around the

[3] Altough to the larger world, Wixáritari are best known as "Huichols", as this is the name with which they were known since the colony. We have referred to them as *Wixáritari* (the people), which is the name they call themselves as well as its adjectival form and name of their language: Wixárika

world to perform screenings raise awareness about their case (Barnet n.d. Hufftington Post Web)

As Macias notes, Wiráritari have proved to be well organized and with a well-planned strategy. They have achieved specific goals such as a political commitment from Congressmen of the three main parties to regulate mining exploitation in the San Luis Potosi Region; a well-structured legal defence, and a settlement on the issue that temporarily has suspended the exploitation of the mines (Macias 2015)

STRONG QUESTIONS: THE CASE OF WIRIKUTA

Historically, Wixáritari[4] appear as a highly-isolated and strongly resilient society. As Sitton reports, the nature of these peoples and they relationships with the state are contradictory, as they see themselves as highly independent and self-governing. Historically they have been under the control of the Mexican nation (Sitton 1996) However, the case of Wirikuta and the mobilisations against mining activities have originated new dynamics between Wixártari and the state, as well as broadening the debate to a transnational level.

As indicated above, it has been made necessary to analyse the strategies and discourses of the activism on behalf of indigenous interests. The successes of the Front are the result of a well-planned strategy involving legal claims and transnational activism. This has not only re-politicized the status of the indigenous groups, it has also become part of a larger counter-hegemonic movement in which the main strategy has been to use supra-national institutions and also the legal framework of the state, in counter-hegemonic fashions. It can be argued that these movements are counter-hegemonic as long as they challenge narrow

models of liberal and formal democracy and promote the acceptance of broader models with new actors and novel interests.

As Tilly indicates, social movements combine three kinds of claims: program, identity and standing (Tilly 2013, p.153). In the case of Wirikuta, program claims involve the cancelation of the mining concessions based on its illegality. Identity claims are based upon Wixáritari strong cultural identity, and their ability of becoming unified against the threat that is represented by the mining corporations.

The two main organisations that defend the land of Wirikuta, the front and the regional council, have been very successful in asserting identity claims, as well as collaborating with key players in the civil society and NGO's. The potential of these organisations of becoming part of a broader movement of transnational advocacy could be increased as the standing claims are expressed more clearly. Tilly warns that professionalization of social movements could tip the balance form identity and standing toward programs, however, there is also the possibility that professionalization leads to new identity and standing claims.

Indigenous communities, such as Wixáritari, have managed to employ a language that is evocative and political, as well as universal and culturally allocated. Subaltern cosmopolitanism implies the mutual understanding and connections among similar or analogous struggles, it can be argued that the movement has contributed to the broadening of political and cultural potentialities of other similar struggles, as the existence of a sacred land and it´s protection is the basic element of the struggle. The nature and local

specifications of each struggle is diverse and to some extent unattainable, however, there is a progressive element in the universal narrative of indigenous movements of resistance.

In this paper, I have explored the ways in which indigenous claims represent several challenges to essential assumptions of the current paradigm. I have also analysed several tools that can be both employed in hegemonic and counter-hegemonic fashions. Not all practices represent a challenge to the neoliberal model of globalisation and not all human rights NGOs challenge the legal assumptions of individual rights. (M. Santos 2015)

- **CITIZENSHIP**

Wixáritari regard themselves as independent and self-governing (Sitton 1996) furthermore, according to Liffman, they perceive themselves as the true originators of national identity (Liffman 2011)[5]

According to Liffman, the ceremonial ways in which Wixáritari use state symbols strengthens the proposition that liberal definitions of citizenship are becoming insufficient in order to understand the ways in which indigenous peoples articulate their claims. There is a need, according to Liffman, of a broader and stronger sense of citizenship, as Acevedo Rodrigo suggests:

> "We need to add a new concept of citizenship. Here citizenship is understood as a set of social practices rather than a fixed status or an ideal enshrined in legal theory and codes. These practices respond to a variety of local political cultures, revolve around the exercise of rights

[5] Liffman narrates how Wixáritari believe that the national symbols of the Mexican state, the image of a serpeant trapped in the mouth of an eagle not only proofs that they share a common identity with other Mesoamerican peoples, it proofs that the Mexican state is dependant of their symbolic production.

> and duties, including the struggles to obtain entitlement, and link the population to different political communities from village or town to the nation-state" (Acevedo Rodrigo cited in Liffmann 2011, p.10)

The discussion on citizenship, as it was presented on chapter 2 of this paper, becomes enriched with these ideas. The research question of this paper can be now expressed as follow: have the strategies of the Wirikuta defence front articulated a novel sense of citizenship? To this point it appears that they have. They have focused on Wixárika rich cultural heritage: a culture that appears as representative of the theories of worldview and culture that have been articulated above. Some scholars have proposed the notion of ethnic citizenship, which can be perceived as more potentially counter-hegemonic than traditional conceptions of citizenship; ethnic citizenship would imply the reformulation of what has been called so far the state-nation and its functions of homogenization. (Liffman 2011)

According to Santos, subaltern cosmopolitanism implies that, it is neither possible nor necessary to elaborate a unified theory of revolutionary movements and notions. Based on this idea, it can be argued that instead of formulating a strict-definition of such kinds of concepts, it is necessary to initiate the debate by acknowledging the possibilities of cultures such Wixáritari, and some of their practices like including the ancestors, the elder, and the forces of nature as political participants. (Liffman 2011)

- **NATION, STATE AND LAW**

Indigenous activism has confronted state power in several aspects, in its diversity; it has challenged received understandings of identity. At the same time, indigenous groups have

encountered the necessity of engaging in a collective project of identity reconstruction (Tilley 2002) as illustrated in the case of the U'wa people.

Furthermore, indigenous groups as representatives of ancient cultures have increasingly demanded the recognition of their traditional legal systems. The problem of legal pluralism, as discussed un chapter two, implies the necessity of fixing a conception of law that goes beyond the robust definitions of state-law, the project of recovering formerly "supressed discourses" is, however, problematic, as Roberts warns us, it is not that the project of recovering these discourses is futile, we must begin that process, however, in the own terms of the allegedly supressed discourses (Roberts 1998) In other words, attributing concepts as "law" and "justice" in terms that are alien to those cultures, is another form of colonialism.

As observed in this paper, the Wirikuta defence-front has effectively made use of legal instruments at the national and international level. Although these successes are not yet definitive, (the Supreme Court has ordered the suspension of all mining concessions in the area of Wirikuta, however these procedures are currently sub-judice) the effective use of legal instruments in favour of their interests evidences the use of hegemonic tools with counter-hegemonic ends.

According to Santos, subaltern conceptions and practices of law can be categorized as: 1) conceptions and practices that though being part of the Western tradition and evolving in Western countries, were suppressed or marginalized by the liberal conceptions that came to dominate; 2) conceptions that evolved outside the West (such as indigenous traditions); 3) conceptions and practices that are today being proposed by organisations and movements which are active in advancing forms of counter-hegemonic globalisation (Santos 2012,

p.446). We are in presence of a practice of law that is being advance with counter-hegemonic ends. However, the deep significances of the traditions of Wixárika culture and the apparent recognition of the multicultural construction of the state (as it is expressed in the Article 2 of the Mexican Constitution) are still waiting to be activated in their full potential.

Wixáritari have not been to this point as radical as other movements such as the Zapatistas, however, they have managed to allocate their demands to some sectors of civil society and to direct these demands to the recognition of their culture. The symbolism of Wirikuta has attracted the attention of artists, anthropologists, and sociology scholars; however, many sectors of the community still perceive that mining companies are an alternative to unemployment and poverty, principally; the non-indigenous sectors of the community are still in need of a response for their material needs.

There "Wirikuta Defence-Front" still faces many challenges: the connection between the cultural significance of Wixáritari and their unique vision of the world needs to be translated into political and legal terms with practical significance. It is necessary also to be able engage in a cross-cultural dialogue, not only with the state, but with similar movements of resistance. The "subaltern cosmopolitanism" that is defined by Santos, in which cultural minorities are able to communicate their needs, engaging in a counter-hegemonic globalisation or "globalisation from below" opens new territories that are still being explored. The full potential of indigenous movements is still yet to be achieved.

CONCLUSIONS

The struggles of indigenous-popular movements represent a “new paradigm of resistance” (Burguete Cal y Mayor 2010, cited in Dinerstein 2014) although their claims are based in ancestral practices that, under the light of the current paradigm, are translated into concepts such as autonomy and legal pluralism.

As Dinerstein argues, reading indigenous struggles as part of anti-capitalist struggles is misleading. These struggles are part of a long-standing demand for recognition which in this case stands against dispossession and integration (Dinnerstein 2014, p. 146)

Therefore, the radical potential of these struggles is not only that they call for the necessity of reactivating some of the foundations of the current paradigm; these struggles provide new and broader perspectives of the current paradigm and challenge its borders. Similar cases of resistance have had remarkable outcomes as in the case of the struggle of the Aymara people in Bolivia: the formation of the plurinational state that recognizes the multicultural composition of the state and creates new rules for the process of integration of indigenous demands (Dinnerstein, 2014)

However, the main dilemmas of indigenous claims are still not appropriately addressed: the claim for autonomy from the state as well as inclusion, the claim for self-determination that is based on the collective nature of indigenous societies,

The many dilemmas that have been explored in this study seem to refer, some more directly than the others, to the difficulties of translating other forms of understanding and relating to the world. As it the case of Wixaritari illustrates: they regard themselves as autonomous, keep a sophisticated system of relating to the territory that coexists with the legal

framework of the state, regard the sacred land of Wirikuta as a centre sanctuary with significance not only to their culture but to the whole humankind as well. In sum, the contention of Bloch can be very well applied to Wixáritari: “not all people exist in the same time now; they do so only externally, through the fact that they can be seen today. But they are thereby not yet living at the same time with the others” (Bloch 1962 cited in Dinerstein 2014)

The biggest success of the Wirikuta defence-front has been to depict and to communicate the cultural distinctiveness of Wixarika culture and the special significance of the sacred land of Wirikuta. Being able to communicate their struggle into a broader context of what Santos calls “Subaltern Cosmopolitanism” would imply even a bigger field of action even if, based on the spiral model, the movement is to reach a stage of mere symbolic concessions from the state.

The Wixaritari are an example of new practitioners of civil resistance with non-violent, self-defence strategies. The main effects of this movement have been to pressure local authorities and to mobilise support from people in the cities and from international organisations. To them, what is at stake is not only the continuity of their culture. From their cultural stand-point, western culture and the paradigm of modernity also represent a “strong question” that cannot be answered within certain boundaries.

The intention of this study has been merely to identify the ways in which the strategies of indigenous groups mirror the alleged counter-hegemonic potential of their struggles. It has been revealed that, the distinction hegemonic-counterhegemonic still falls short in fully

acknowledging different worldviews, however, this a weak-strong answers itself: it shows the limits and the historical nature of the existing range of possibilities.

BIBLIOGRAPHY

Books

- Anderson, Gavin W. 2005 *Constitutional Rights after Globalization*. Oxford: Hart Pub
- Aguilar, G., Lafosse, S., Rojas, H. and Steward, R. 2011 *Justicia Constitucional y Modelos de Reconocimiento de Los Pueblos Indígenas*. Mexico DF: Porrúa, pp.9-63.
- Arenas, Luis Carlos 2007 "The U'wa Community's Battle Against the Oil Companies: A Local Struggle Turned Global". In Santos, Boaventura de Sousa. *Another Knowledge Is Possible*. London: Verso, pp. 121-147.
- Brysk, A. 2007 Globalización y Pueblos Indígenas: El rol de la sociedad civil internacional en el siglo XXI. In: S. Martí I Puig, ed., Pueblos Indígenas y Política en América Latina: El reconocimiento de sus derechos y el impacto de sus demandas a inicios del siglo XXI, 1st ed. Barcelona: Bellaterra, pp.17-30.
- Dinerstein, Ana Cecilia. (December 2014). 'Contesting Translation ' in *The Politics of Autonomy in Latin America* pp.144–170. [Online] Available at: http://www.palgraveconnect.com.ezproxy.lib.gla.ac.uk/pc/doifinder/10.1057/9781137316011.0014. (Accessed: 29 August 2015).

- Dussel, Enrique 2002 "Democracy in the Center and Global Democratic Critic. In O: Enwezor-C.Basualldo, Democracy Unrealized, Documenta11_Platform1,Hatje Cantz Publishers, Osfildern Ruit, pp. 267-284

- Eckstein, S. and Wickham-Crowley, T. 2003 *what justice? Whose justice?* Berkeley: University of California Press. 257-284
- Forte, Maximilian C. 2010 (ed) Indigenous Cosmopolitans Transnational and Transcultural Indigeneity in the Twenty-First Century, New York (1-14)
- Fitzpatrick, Peter 2001. *Modernism And The Grounds Of Law*. Cambridge, UK: Cambridge University Press
- Glenn, H.P. 2000 Legal Traditions of the World, Oxford University Press, Oxford
- Grote, R. 1999. The status and rights of indigenous peoples in Latin America.
- Houtzager, P. 2005. *The movement of the landless (MST) and the juridical field in Brazil*. Brighton, Sussex, England: Institute of Development Studies.
- Kymlicka. 1989 *Liberalism, Community and Culture.* (New York: Oxford University Press.
- Liffman, Paul M. 2011 *Huichol Territory And The Mexican Nation*. Tucson: University of Arizona Press.
- Morgan, R 2011 *Transforming Law and Institution: Indigenous Peoples, the United Nations and Human Rights.* Burlington, Vermont. Ashgate
- Olsen, M.E., Lodwick, D.G & Dunlap, R.E. 1992, viewing the world ecologically. San Francisco: Westview Press.

- Pratt, Mary Louisee, 1992 *Imperial Eyes: Travel Writting and Transculturation*, New York: Routledge.
- Radcliffe, Sara 2007 Tejiendo Redes: Organizaciones y Capital Social en los pueblos indígenas. In. S. Martí I Puig, ed. Pueblos Indígenas y Política en América Latina: El Reconocimiento de sus derechos y el impacto de sus demandas a inicios del siglo XXI, 1st Ed. Barcelona: Bellaterra. pp. 31-56
- Risse, Thomas et. al. 2013 *The Persistent Power Of Human Hights*. Cambridge [u.a.]: Cambridge Univ. Press.
- Santos, Boaventura de Sousa 2002 *Toward A New Legal Common Sense*. London: Butterworths LexisNexis
- Sitton, Salomon Nahmad. 1996 'Huichol Religion And The Mexican State: Reflections On Ethnocide And Cultural Survival'. *People Of The Peyote. Huichol Indian History, Religion And Survival*. Stacy B. Schaefer and Peter B. Furst. 1st ed. Alburquerque: University of New Mexico Press. 468-471. Print.
- Stavenhagem2002 *The Return of the Native*. London: University of London, Institute of Latin American Studies, Print.
- Tilly, Charles, and Lesley J Wood. 2013 *Social Movements, 1768-2012*. Boulder, CO: Paradigm Publishers.
- Tobin, Brendan. 2014 *Indigenous Peoples, Customary Law And Human Rights*. New York. Routledge,
- Tully, James. 1995 *Strange Multiplicity*. Cambridge: Cambridge University Press
- Twining, William. 2000 *Globalisation And Legal Theory*. London: Butterworths.

- Yashar, Deborah J. 2005 *Contesting Citizenship In Latin America*. Cambridge: Cambridge University Press

- Young, Iris Marion. 1995 "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship." Reprinted in Ronald Beiner, ed. *Theorizing Citizenhip.* Albany: State University of New York. pp.175-208

Journal Article

- Evans, Peter 2005 Counterhegemonic Globalization. In Janoski, Thomas. (ed) *The Handbook Of Political Sociology*. New York: Cambridge
- Gow, David and Joanne, Rappaport. 2002. The Indigenous Public Voice. In *Indigenous Movements, Self-Representation, and the State in Latin America*, ed. K.B Warren and J. E. Jackson, 47-80. Austin: University of Texas Press.
- Graham, T.C. 2002 Using reason for living to connect to American Indian healing traditions. *Journal of Sociology and Social Welgare. XXIX (1)*, 55-75.
- Hart, M. Anthony. 2010 *Indigenous Worldviews, Knowledge, and Research: The Development of an Indigenous Research Paradigm.* Journal of Indigenous Voices in Social Work. Volume 1, Issue 1
- Keohane, Robert O., and Joseph S. Nye 2000 'Globalization: What's New? What's Not? (And So What?)'. *Foreign Policy* 118 (2000): 104. Web.
- Liffmann, Paul 2000 *Gourdvines, Fires and Wixarika Territoriality*. Journal of the Southwest, Vol 42. No, 1. Ritual and Historical Territoriality of the Nayari and Wixarika Peoples pp. 129-165.

- Macìas, Atzimba Baltazar. 2015 'The Music That Is Here To Stay: New Rules In State Society Relations In Mexico'. *Revolutionizing The Interaction Between State And Citizens Through Digital Communications*. Sam Edwards III and Diogo Santos. 1st ed. Hershey: IGI Global 145-160. Print.
- Morgan, R 2011 *Transforming Law and Institution: Indigenous Peoples, the United Nations and Human Rights.* Burlington, Vermont. Ashgate
- Pannikar, Raimundo, 1984 "Is the Notion of Human Rights a Western Concept?, Downloaded from dio.sagepub.com at Glasgow University Library on August 24, 2015
- Picq, Manuela. 2014 'SELF-DETERMINATION AS ANTI-EXTRACTIVISM: HOW INDIGENOUS RESISTANCE CHALLENGES WORLD POLITICS'. *E-International Relations* 26-33. http://creativecommons.org/licenses/by-nc-sa/3.0/
- Rajagopal, B. 2006. Counter-hegemonic International Law: rethinking human rights and development as a Third World strategy. Third World Quarterly, 27(5), pp.767-783.
- Renteln, Alison Dundes, and Alan Dundes.1994 *Folk Law*. New York: Garland Pub. Print.
- Roberts, Simon. 1998 'Against Legal Pluralism'. *The Journal of Legal Pluralism and Unofficial Law* 30.42 pp.95-106.
- Santos, Boaventura de Sousa 2009 IF God Were a Human Rights Activist: Human Rights and the Challenge of Political Theologies Is Humanity Enough? The Secular

Theology of Human Rights‘ Law, Social Justice & Global Development.Journal(LGD).http://www.go.warwick.ac.uk/elj/lgd/2009_1/santos

- Santos, Boaventura de Sousa 2012 *Public Sphere and Epistemologies of the South*, in Africa Development, Vol. XXXVII, No. 1, 2012, pp. 43-67
- Santos, Cecilia MacDowel. 2006 'Transnational Legal Activism And Counter-Hegemonic Globalisation, Brazil And The Inter-American Legal System'. *Oficina do CES* 257 Accesed Web. 28 Aug. 2015.
- Serrano Sánchez, Jesús Antonio. 2008 Límites del multiculturalismo de Kymlicka para la defensa de los derechos de los pueblos indígenas. *En-claves del pensamiento*, *2*(3), 27-45. Recuperado en 18 de agosto de 2015, de http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-879X2008000100002&lng=es&tlng=
- Stavenhagen, R, 1998 Cultural Rights: A Social Science Perspective. In R. Stavenhagen, ed., *Peasants, Culture and Indigenous Peoples. 2012,* Mexico City, Mexico: Springer, pp. 29-52
- Stavenhagen 2002 “Indigenous Peoples and the State in Latin America: An Ongoing Debate.” In Rachel Sieder, ed., Multiculturalism in Latin America: Indigenous Rights, Diversity and Democracty. New York: Palgrave Macmillan.
- Tomasi, John. *Kymlicka,*1995 *Liberalism, and Respect for Cultural Minorities.* Ethics, Vol. 105, No. 3 (Apr., 1995), pp. 580-603. The University of Chicago Press.
- TILLEY, VIRGINIA Q. 2002 'New Help Or New Hegemony? The Transnational Indigenous Peoples' Movement And ‘Being Indian’ In El Salvador'. *Journal of Latin American Studies* 34.03: n. pag. Web.

- Warren, K. and Jackson, J. 2002 Studying Indigenous Activism in Latin America. In: K. Warren and J. Jackson, ed., *Indigenous Movements, Self-Representation and the State in Latin America*, 1st ed. Austin: The University of Texas Press, pp.1-43.

Internet Sources

- Angela, E. 2011 "Los Huicholes no van a ceder porque su historia es de resistencia". *La Jornada*. [online] Available at: http://www.jornada.unam.mx/2011/11/21/sociedad/040n1soc [Accessed 13 Jul. 2015]
- Barnett, T. L. (20 de 09 de 2011). *Huicholes en pie de Guerra.* http://esquire.esmas.com/features/336089/conflicto-huicholes, [Accessed 27/08/2015]
- Cultural Survival: Campaign Update, http://www.culturalsurvival.org/news/campaign-update-mexico-wixarika-highlight-human-rights-violations [27/08/2015]
- Frente en Defensa de Wirikuta: www.frenteendefensadewirikuta.org/ wirikuta/?page_id=903) [Accessed 29 Aug 2015]
- Pama, L, 'A Struggle For Sacred Land: The Case Of Wirikuta' Open Democracy:,'A. N.p., 2015. Web. www.opendemocracy.org 29 Aug. 2015.

Other

- Plan de Manejo del Área Natural Protegida, “Sitio Sagrado Natural” “Huiricuta (sic) y Ruta Histórico-Cultural del Pueblo Huichol” Secretaría de Ecología y Gestión Ambiental, Gobierno del Estado de San Luis Potosí, Enero de 2008.